

REMARKS

The present application included pending claims 1-53, all of which have been rejected. In particular, claims 1-53 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2001/0021994 (“Nash”) in view of U.S. 2002/0152117 (“Cristofalo”). The Applicants respectfully traverse these rejections for at least reasons previously discussed during prosecution and the following:

Claim 1 recites, in part, “server software that receives a request identifying one or both of the associated network address and/or a user identifier, and responds by automatically selecting media according to a **user-defined profile**, the **user-defined profile** corresponding to one or both of the associated network address and/or a user identifier.” The other independent claims also clarify that the profile is **user-defined**. The Applicants respectfully submit that neither Nash, nor Cristofalo, alone or in combination with one another, describes, teaches or suggests automatic selection of media according to a **user-defined profile**.

Nash, for example, discloses a “method of presenting information to a viewer which contains both material which has been explicitly gleaned from either the viewer’s viewing habits or direct inputs by the viewer and material which may be inferred as being possible interest to the viewer but outside the normal viewing habits.” *See* Nash at [0004]. In general, Nash discloses a system and method in which **the user profile is determined and generated by the system, but not defined by the user**. In particular, Nash discloses:

[A] method of selecting television advertisements for viewing and/or recording comprising the steps of:

- i) receiving data representing advertisements to be transmitted, said data indicating at least the date, and time of transmission of the advertisement and the advertisement type,

ii) receiving data representing **a rating given to advertisements** and/or the products or services promoted by the advertisement by **individual reviewers or organisations**,

iii) storing at least some of the data,

iv) entering and/or generating and storing a user profile indicating the type of programmes the user prefers to view, and

v) selecting the programme for viewing and/or recording using the stored data and the user profile.

Id. at [0031]-[0036]. Thus, Nash is clear that programmes are selected based on data representing a rating by individual reviewers or organization and a user profile. Thus, even if one were to assume that Nash discloses that input from a user may be used to initially define the user profile, the selection of advertisements uses both the user profile and the stored data, even from the start.

Indeed, Nash specifically discloses that the system may override user preferences:

By making the rating of an advertisement by one or more reviewers of the quality of the advertisement or the quality of the product or service promoted by the advertisement one of the factors on which the advertisement selection and/or suggestion is made, those advertisements which are highly rated by one or more of the reviewers may be suggested to the viewer even if they do not satisfy other selection criteria.

Id. at [0010]. Thus, in Nash, advertisement selection and/or suggestion is determined through reviewers ratings, which may override other selection criteria. However, Nash does not describe, teach or suggest “**automatically selecting media** according to a **user-defined profile**,” as recited in the claims.

The Office Action states, however, the following:

Nash provides clear support for the teaching of a user-defined profile which is used in the selection of media to present to a user.

Page 4, paragraph [0040], in addition to the Abstract, state that the user profile can be explicitly generated by the user ... entering preferences via a user interface. Specifically Nash teaches that having a user-defined profile is necessary to overcome the problem of receiving device lack of knowledge of a user's interest and hence suggestions for viewing will be non-existent or random. Therefore a viewer will enter some initial information as to his or her preferences, by using a menu and selection scheme. That initial profile is then continuously updated. However the initial profile is defined by a user.

See June 23, 2008 Office Action at page 16 (emphasis added). As shown, the Office Action relies on Nash at the Abstract and paragraph [0040] as disclosing a user-defined profile. Thus, the Applicants will address these portions of Nash.

First, Nash states the following:

A television system which enables advertisements to be targeted at viewers who have a particular interest in the products or services being promoted by the advertisement comprises reviews from a plurality of reviewers (101-1 to 101-n) commissioned by the advertiser (100) and alternatively or additionally by independent reviewers (103-1 to 103-n). These reviews are encoded into a data channel associated with the advertisement. A product rating decoder (106) is provided in a receiver (105) which decodes the data in the data channel and selects advertisements for display based on the data and a user profile generated either explicitly by the user entering preferences via a user interface (109) or implicitly by monitoring the type of programme selected for viewing by the user.

Nash at Abstract. As shown above, Nash discloses that a user may enter preferences via a user interface. These preferences may be used to generate a user profile. However, neither this portion, nor the remainder, of Nash describes, teaches or suggests “**automatically selecting media according to a user-defined profile,**” as recited in the claims. Instead, as noted above, Nash discloses advertisement selection and/or suggestion being **determined through reviewers ratings, which may override other selection criteria.**

Next, Nash at [0040] states the following:

Over a period of time an accurate **user profile can be build up by monitoring those advertisements which are watched or recorded and this profile can be continuously refined as the viewer's tastes change or develop.** This, however, does not mean that on initial use the receiving device has no knowledge of the viewer's interest and hence suggestions for viewing will be non-existent or random. In order to overcome this problem **it is possible for the viewer to enter some initial information as to his or her interests,** for example using a menu and selection scheme by entering choices using a remote control device. This initial profile is then continuously updated by monitoring those programmes watched or recorded.

Nash at [0040] (emphasis added). Thus, Nash discloses that a user may enter "initial information," and then the system determines an "initial profile" from that initial information. However, entering this initial information, which the system uses to determine an initial profile, is not "automatically selecting media according to a **user-defined profile,**" as recited in the claims. Instead, as explained above, Nash discloses that advertisement selection and/or suggestion is determined **through reviewers' ratings, which may override other selection criteria.** See *id.* at [0010] and [0031]-[0036].

Moving on, Cristofalo discloses a system and method in which a "media object based content is preferably presented to users based upon profile established **for** the user," but not by the user. Thus, similar to Nash, Cristofalo does not describe, teach or suggest "automatically selecting media according to a **user-defined profile.**" Instead, Cristofalo is clear that the profile is established **for** the user.

The Applicants respectfully submit that the proposed combination of Nash and Cristofalo does not describe, teach or suggest at least the following:

- "**automatically selecting media** according to a **user-defined profile,**" as recited in

claims 1 and 28;

- “server software that **automatically selects media** according to a **user-defined profile**,” as recited in claim 10;
- “receiving a **user-defined profile** from a user; **automatically selecting media** according to the **user-defined profile**,” as recited in claim 21;
- “at least one processor supports receipt, via a communication network, of **media that is automatically selected** according to a **user-defined profile**,” as recited in claim 37; and
- “sending by a user a **user-defined profile**; receiving by the user information identifying **media automatically selected** in accordance with the **user-defined profile**,” as recited in claim 47.

Thus, for at least these reasons, the Applicants respectfully request reconsideration of the rejection of claims 1-53.

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request that the outstanding rejections be reconsidered and withdrawn. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the Applicants’ attorney at the telephone number listed below.

Appln. No. 10/672,251
Response Under 37 C.F.R. § 1.116
August 12, 2008

The Commissioner is authorized to charge any necessary fees, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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MCANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775-8100

/Joseph M. Butscher/
Joseph M. Butscher
Registration No. 48,326
Attorney for Applicants